

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

ADJUSTACAM LLC

PLAINTIFF,

v.

Civil Action No. 6:10-cv-329-LED

AMAZON.COM, INC.; *et al.*,

DEFENDANTS.

**ANSWER OF COBRA DIGITAL LLC TO
FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Defendant Cobra Digital, LLC (“Cobra”) hereby files its Answer to the First Amended Complaint for Patent Infringement (“Complaint”), filed by AdjustaCam LLC (“Plaintiff”) in the above-captioned matter, and states as follows:

1. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint, and therefore denies them.
2. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint, and therefore denies them.
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7. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint, and therefore denies them.

8. ADMIT. Cobra Digital LLC is not related to Cobra Electronics Corporation.

9. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint, and therefore denies them.

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58. ADMIT ONLY that this action is alleged under Title 35 of the U.S. Code. Deny all other allegations with regard to Cobra. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint with regard to other defendants, and therefore denies them.

59. Deny as to Cobra. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 59 of the Complaint as to other defendants, and therefore denies them.

COUNT I INFRINGEMENT OF U.S. PATENT NO. 5,855,343

60. Cobra admits that the United States Patent No. 5,855,343 (“the ‘343 Patent”) is titled “Camera Clip.” Cobra admits that, on its face, the ‘343 Patent states that it was filed on March 7, 1997 and that it was issued on January 5, 1999. Each and every other allegation contained in paragraph 60 of the Complaint is denied.

61. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 of the Complaint, and therefore denies them.

62. DENY

63. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 of the Complaint, and therefore denies them.

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79. DENY

80. DENY

81. DENY

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222. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in this Paragraph of the Complaint, and therefore denies them.

223. Cobra denies each and every allegation contained in paragraph 223 of the Complaint to the extent that these allegations relate to Cobra. Cobra is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 223 of the Complaint with respect to any of the other Defendants in this action, and therefore denies such allegations.

224. Cobra denies each and every allegation contained in paragraph 224 of the Complaint to the extent that these allegations relate to Cobra. Cobra is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 224 of the Complaint with respect to any of the other Defendants in this action, and therefore denies such allegations.

225. Cobra denies each and every allegation contained in paragraph 225 of the Complaint to the extent that these allegations relate to Cobra. Cobra is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 225 of the Complaint with respect to any of the other Defendants in this action, and therefore denies such allegations.

226. Cobra denies each and every allegation contained in paragraph 226 of the Complaint to the extent that these allegations relate to Cobra. Cobra is without information or knowledge sufficient to admit or deny the remaining allegations contained in paragraph 226 of the Complaint with respect to any of the other Defendants in this action, and therefore denies such allegations.

Prayer for Relief

To the extent a response is required to Plaintiff's prayer for relief, Cobra admits that Plaintiff seeks various forms of relief in this action. Cobra denies that Plaintiff is entitled to any relief in this action to the extent such relief relates to Cobra. Cobra lacks knowledge or information sufficient to form a belief as to the truth of the allegations that Plaintiff is entitled to relief with respect to any of the other Defendants in this action, and therefore denies such allegations.

Additionally, all allegations of the Complaint not expressly admitted herein are denied.

AFFIRMATIVE AND OTHER DEFENSES

Cobra asserts the following affirmative and other defenses, and reserves the right to amend its Answer as additional information becomes available and additional defenses become apparent.

**First Defense
(No Infringement)**

227. Cobra does not infringe and has not infringed, either directly, contributorily, or by inducement, any claim of the '343 Patent, either literally or under the doctrine of equivalents.

**Second Defense
(Invalidity)**

228. The claims of the '343 Patent are invalid for failure to comply with one or more provisions of the patent laws of the United States of America, Title 35, United States Code, including, but not limited to, 35 U.S.C. §§ 101, 102, 103, and/or 112.

**Third Defense
(Limitation on Damages)**

229. Plaintiff's recovery for alleged infringement of the '343 Patent, if any, is limited to alleged infringements committed no more than six years before the filing of the Complaint pursuant to 35 U.S.C. § 286.

**Fourth Defense
(Patent Marking and Notice)**

230. Some or all of Plaintiff's claims are limited by failure to comply with the marking and notice requirements of 35 U.S.C. § 287.

**Fifth Defense
(Waiver and/or Equitable Estoppel)**

231. Plaintiff's claims are barred by the doctrines of waiver and equitable estoppel.

**Sixth Defense
(Laches)**

232. Plaintiff's claims are limited by the doctrine of laches.

**Seventh Defense
(License, Implied License and/or Patent Exhaustion)**

233. Plaintiff's infringement claims are barred by one or more of the doctrines of license, implied license and patent exhaustion.

**Eighth Defense
(Unclean Hands)**

234. The claims of the '343 Patent are unenforceable under the equitable doctrine of unclean hands.

**Ninth Defense
(Prosecution History Estoppel)**

235. Plaintiff's claims are barred under the doctrine of prosecution history estoppel.

**Tenth Defense
(Government Sales)**

236. Plaintiff's claims are limited under 28 U.S.C. § 1498.

**Eleventh Defense
(Intervening Rights)**

237. Plaintiff's claims are barred or limited under 35 U.S.C. §§ 252, 307(b).

**Twelfth Defense
(Adequate Remedy at Law)**

238. Although Cobra denies that Plaintiff is entitled to any relief in this action, Plaintiff's request for an injunction or other equitable relief is barred because Plaintiff has an adequate remedy at law; therefore, no basis exists upon which to grant equitable relief.

**Thirteenth Defense
(Lack of Standing)**

239. Plaintiff lacks standing to assert the '343 Patent, and Plaintiff's complaint should be dismissed for failure to join an indispensable party.

**Fourteenth Defense
(Other Applicable Defenses)**

239. Cobra expressly reserves the right to assert any other legal or equitable defenses to which it is shown to be entitled.

WHEREFORE, Defendant Cobra Digital, LLC asks the Court to enter judgment granting the following relief:

A) Denial of Plaintiff's request that Cobra be found to have infringed the '343 Patent;

B) Denial of Plaintiff's request that Cobra be found to commit willful and objectively reckless infringement;

C) Denial of Plaintiff's request for an injunction against Cobra as to the '343 Patent;

- D) Denial of Plaintiff's request for damages relating to the '343 Patent;
- E) Denial of Plaintiff's request for enhanced damages;
- F) Denial of Plaintiff's request that the case be declared exceptional pursuant to 35 U.S.C. § 285 as well as denial of Plaintiff's request for attorneys' fees;
- G) Denial of Plaintiff's request for other and further relief;
- H) Dismissal of Plaintiff's claims with prejudice and that Plaintiff take nothing therefrom;
- I) Declaring this case is exceptional and awarding Cobra reasonable attorneys' fees as provided by 35 U.S.C. § 285; and
- J) An award to Cobra of such other relief as the Court finds just and proper.

Respectfully submitted,

SHEPHERD, SCOTT, CLAWATER & HOUSTON, L.L.P.

/s/Allison Standish Miller

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**COUNSEL FOR DEFENDANT
COBRA DIGITAL, LLC**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Other Defendants will be served in accordance with the Federal Rules of Civil Procedure.

/s/Allison Standish Miller
Allison Standish Miller